

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BMW OF NORTH AMERICA, LLC, a
Delaware Limited Liability Company,
and BAYERISCHE MOTOREN
WERKE AG, a German Corporation,

Plaintiff,

v.

FATIH BABA, an Individual; EREN
BABA, an Individual; SEDA ROONEY
a/k/a SEDA BABA, an Individual; and
DOES 1-10, inclusive,

Defendants.

Case No.: 2:18-cv-09147-PSG-E

**[PROPOSED] PERMANENT
INJUNCTION AND DISMISSAL
WITH PREJUDICE**

HON. PHILIP S. GUTIERREZ

The Court, pursuant to the Stipulation for Entry of Permanent Injunction
against Defendants and Dismissal (“Stipulation”) by and between BMW OF
NORTH AMERICA, LLC, and BAYERISCHE MOTOREN WERKE AG
(collectively “BMW”), and Defendants FATIH BABA, EREN BABA, and SEDA

1 ROONEY a/k/a SEDA BABA (collectively “Defendants”), filed concurrently
2 herewith, hereby ORDERS, ADJUDICATES and DECREES that a permanent
3 injunction shall be and is hereby entered against Defendants in the above-
4 referenced matter as follows:

5 1. **PERMANENT INJUNCTION.** Defendants and any person or
6 entity acting in concert with, or at the direction of any of the Defendants,
7 including any and all agents, servants, employees, partners, assignees, distributors,
8 suppliers, resellers and any others over which any of the Defendants may exercise
9 control, are hereby restrained and enjoined, pursuant to 15 United States Code
10 (“U.S.C.”) § 1116, from engaging in, directly or indirectly, or authorizing or
11 assisting any third party to engage in, any of the following activities in the United
12 States and throughout the world:

13 a. copying, manufacturing, purchasing, importing, exporting,
14 marketing, selling, offering for sale, distributing or dealing in any product or
15 service that uses, or otherwise making any use of, any of BMW’s trademarks,
16 including but not limited to, the BMW® word and design marks, the M® word
17 and design marks, the BMW dual kidney-shaped automobile grille design marks,
18 the MINI® word and design marks, and/or any intellectual property that is
19 confusingly or substantially similar to, or that constitutes a colorable imitation of,
20 any of BMW’s trademarks (collectively “BMW’s Trademarks”), whether such use
21 is as, on, in or in connection with any trademark, service mark, trade name, logo,
22 design, Internet use, website, domain name, metatags, advertising, promotions,
23 solicitations, commercial exploitation, television, web-based or any other
24 program, or any product or service, or otherwise;

25 b. performing or allowing others employed by, under control of,
26 or representing Defendant, or under his control, to perform any act or thing which
27 is likely to injure BMW or any of BMW’s Trademarks, specifically including but
28

1 not limited to the BMW®, M®, MINI®, and BMW dual kidney-shaped
2 automobile grille.

3 c. engaging in any acts of federal and/or state trademark
4 infringement, false designation of origin, unfair competition, dilution, or other act
5 which would tend damage or injure BMW; and/or

6 d. using, owning, possessing, and/or controlling any Internet
7 domain name or website that includes any of BMW's Trademarks including but
8 not limited to the BMW® word and design marks, the M® word and design
9 marks, the BMW dual kidney-shaped automobile grille design marks, and the
10 MINI® word and design marks.

11 2. Defendants are immediately ordered to deliver to counsel for BMW
12 for destruction all unauthorized products, including counterfeit BMW®, M®,
13 MINI®-branded products, apparel, stickers, labels, signs, prints, packages,
14 wrappers, receptacles and/or advertisements relating thereto in their possession or
15 under their control bearing any of BMW's Trademarks or any simulation,
16 reproduction, counterfeit, copy or colorable imitations thereof, and all plates,
17 molds, heat transfers, screens, matrices and other means of making the same, to
18 the extent that any of these items are in Defendants' possession.

19 3. This Permanent Injunction shall be deemed to have been served upon
20 Defendants at the time of its execution by the Court.

21 4. The Court finds there is no just reason for delay in entering this
22 Permanent Injunction, and, pursuant to Rule 54(a) of the Federal Rules of Civil
23 Procedure, the Court directs immediate entry of this Permanent Injunction against
24 Defendants.

25 5. Defendants will be making an agreed-upon payment to BMW, as
26 more particularly described in a separate Confidential Settlement Agreement.

27 6. **NO APPEALS AND CONTINUING JURISDICTION.** No
28 appeals shall be taken from this Permanent Injunction, and the parties waive all

rights to appeal. This Court expressly retains jurisdiction over this matter to enforce any violation of the terms of this Permanent Injunction by Defendants.

7. **NO FEES AND COSTS.** BMW and Defendants shall bear their own attorneys' fees and costs incurred in this matter.

8. **DISMISSAL WITH PREJUDICE.** Upon entry of this Permanent Injunction against Defendants, this case shall be dismissed with prejudice.

IT IS SO ORDERED, ADJUDICATED and DECREED this 17th day of June 2019.

PHILIP S. GUTIERREZ

HON. PHILIP S. GUTIERREZ
United States District Judge
Central District of California